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7 Teck Cominco Limited

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10 UNITED STATES DISTRICT COURT

11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 SAN FRANCISCO DIVISION

13 CARLETTA JUSTICE, a minor, and) CASE NO. 06-CV-3328-MHP

14 YOLANDA JUSTICE, a minor, by and through) DEFENDANTS TECK COMINCO
their guardian ad litem, BOBBY BROWN,) LIMITED'S REQUEST FOR LEAVE TO
15 Plaintiffs,) FILE RULE 12 MOTIONS AND
16 v.) PROPOSED ORDER

17 DOES 1 TO 500, inclusive)

18 Defendants.)

19)

20 **REQUEST FOR LEAVE OF COURT**

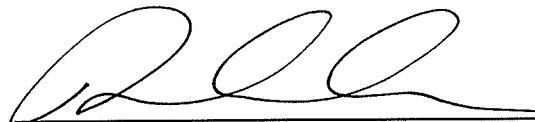
21 COME NOW Defendant, TECK COMINCO LIMITED, by and through its attorneys,
22 LEWIS BRISBOIS BISGAARD & SMITH, LLP., and respectfully requests, pursuant to this
23 Honorable Court's Standing Order Number 4, leave to file its Federal Rule of Civil Procedure 12(b)6
24 and 12(e) motions in response to plaintiffs CARLETTA JUSTICE and YOLANDA JUSTICE's
25 Complaint on the basis that said Complaint fails to state facts sufficient to establish any cause of
26 action or cognizable legal theory against Defendant TECK COMINCO LIMITED.
27

1 Respectfully submitted,

2 DATED: June 5, 2006

LEWIS BRISBOIS BISGAARD & SMITH LLP

4 By



5 PAUL A. DESROCHERS

6 Attorneys for Defendants

7 Teck Cominco American Incorporated and Teck Cominco

8 Advanced Materials Incorporated

9 **ORDER**

10 This court hereby grants the request of Defendant TECK COMINCO LIMITED for leave
11 to file its motions pursuant to Federal Rule of Civil Procedure 12(b)(6) and 12(e).

12 Dated: July 26, 2006

13 THE HONORABLE MARILYN H. PATEL



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Attorneys for Defendants

Teck Cominco American Incorporated and

Teck Cominco Advanced Materials Incorporated

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

CARLETTA JUSTICE, a minor, and) CASE NO. C06-3328 MHP
YOLANDA JUSTICE, a minor, by and through)
their guardian ad litem, BOBBY BROWN,)
Plaintiffs,) CERTIFICATE OF SERVICE OF NOTICE
v.) OF TECK COMINCO LIMITED'S
DOES 1 TO 500, inclusive) REQUEST FOR LEAVE TO FILE RULE 12
Defendants.) MOTIONS AND PROPOSED ORDER

I, TERRI WONG, certify and declare as follows:

20 I am employed in the County of San Francisco, State of California. I am over the age of 18
21 and not a party to the within action. My business address is One Sansome Street, Suite 1400, San
22 Francisco, CA 94104, which is located in the city, county and state where the mailing described
23 below took place.

24 On June 5, 2006, I deposited with the United States Postal Service at San Francisco,
25 California, a true and correct copy of the following documents:

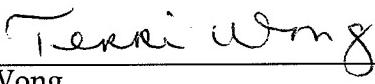
**TECK COMINCO LIMITED'S REQUEST FOR LEAVE TO FILE RULE 12
MOTIONS AND PROPOSED ORDER**

1 on the interested parties in this matter as follows:

2 Clayton W. Kent
3 Brayton Purcell, LLP
4 222 Rush Landing Road
Novato, CA 94948-6169

Attorneys for Plaintiffs CARLETTA
JUSTICE and YOLANDA JUSTICE

5 I declare under penalty of perjury under the state and federal laws of the State of California
6 that the foregoing is true and correct and that I am employed in the office of a member of the bar
7 of this Court at whose direction the service was made. Executed on June 5, 2006, at San
8 Francisco, California.

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10 _____
Terri Wong

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